

(S E R V E D)  
( JULY 23, 2007 )  
(FEDERAL MARITIME COMMISSION)

**FEDERAL MARITIME COMMISSION**

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**Docket No. 07- 05**

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**K.E.I. Enterprise dba KEI Logix**

**v.**

**Greenwest Activewear, Inc.**

**Greenwest Activewear, Inc.**

**v.**

**K.E.I. Enterprise dba KEI Logix and Great White Fleet, Ltd**

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**Notice of Filing of Cross-Complaint**

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Notice is given that a cross-complaint has been filed with the Federal Maritime Commission ("Commission") by Greenwest Activewear, Inc. ("Cross-Complainant") against K.E.I. Enterprise dba KEI Logix ("KEI Logix") and Great White Fleet, Ltd. ("Great White") (collectively, "Cross-Respondents") in this proceeding noticed at 72 Fed. Reg. 32,666. Cross-Complainant alleges that Cross-Respondents violated the Shipping Act of 1984 by failing to establish, observe and enforce just and reasonable practices in



connection with its shipments of fabric to Guatemala. 46 U.S.C. §41102(c). Cross-Complainant is demanding that Cross-Respondents pay its claim of \$152,152.90 for loss of cargo plus attorneys fees. In the alternative, Cross-Complainant asks that its request for damages be offset "by the amount of freight charges claimed by KEI Logix less the amount of KEI Logix invoice relative to the lost shipment...and the difference paid to them."

Cross-Complainant asserts that it booked the transport of fabric in August 2006 with KEI Logix from Port Hueneme, California, to Villanueva, Guatemala. KEI Logix and Great White issued separate bills of lading as through bills to the aforementioned ports in California and Guatemala. Great White issued its bill of lading depicting KEI Logix as the shipper. Cross-Complainant alleges that the cargo was stolen while in transit by an inland carrier in Guatemala booked by Great White. In September 2006, Cross-Complainant filed its claim of \$152,152.90 for the stolen cargo with KEI Logix, who then presented the claim to Great White for disposition.

Cross-Complainant contends that Great White wrongfully denied the claim by evoking force majeure pursuant to an inland bill of lading that Cross-Complainant believes was never produced. Moreover, Cross-Complainant asserts that Great White failed to prove that the goods were released in Guatemala with the customary escort and security practices required of all carriers for that particular area.

Cross-Complainant alleges that it negotiated the disposition of its claim directly with KEI Logix and continued to do business with the company. Cross-Complainant



contends that in May 2007, KEI Logix not only breached the agreement reached by the parties for the disposition of the claim, but also refused to deliver three containers in transit unless Cross-Complainant immediately paid the full amount of its outstanding invoices. Cross-Complainant alleges that KEI Logix did this to recoup the money that it owed to Cross-Complainant in their agreement. Accordingly, to mitigate its prospective damages attributable to KEI Logix's breach, Cross-Complainant asserts that it had no alternative but to tender three checks totaling \$101,019.08 for the release of its containers, then to place a stop-payment order on them. Cross-Complainant claims that it offered to reissue the checks and to pay \$2,500 in attorneys fees, but KEI Logix declined the offer.

Cross-Complainant requests that the Commission require Cross-Respondents to pay reparations of \$152,152.90 for the stolen cargo plus attorneys fees, and to mitigate damages relative to freight charges. Additionally, Cross-Complainant requests that any hearings be conducted in either Washington, DC at the Federal Maritime Commission or in Los Angeles, California.



Bryant L. VanBrakle  
Secretary

